

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1501 of 2015

IN

Civil Writ Jurisdiction Case No. 5944 of 2015

- =====
1. Shweta Kumari, daughter of Sri Maheshwar Sah, resident of Mohalla- Barihat, Near Laxmi Mandir P.S.- Khajanchi Hat, District- Purnea.
 2. Ravindra Kumar, son of Sri Dua Lal Yadav, resident of Village- Radhanagar, P.O. & P.S.- BANmankhi, District- Purnea.
 3. Guria Kumari, daughter of Late Satyanarain Sah, resident of Near Banmankhi Bus Stand Ward No. 3, P.O. & P.S.- Banmankhi, District- Purnea.
 4. Mamta Kumari, daughter of Sri Bishwanath Bhagat, resident of Mohalla- Darzeepatti Ward No. 10, Banmankhi, P.O. & P.S.- Banmankhi, District- Purnea.

.... Appellant/s

Versus

1. The State of Bihar.
2. Principal Secretary Education Department, Government of Bihar, Patna.
3. District Programme Officer, Purnea.
4. Block Development Officer, Banmankhi District- Purnea.
5. Block Education Officer, Banmankhi District- Purnea.

.... Respondent/s

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Appearance :

For the Appellant/s :

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-08-2017

Seeking exception to an order passed on 03.07.2015 in Civil Writ Jurisdiction Case No.5944 of 2015, this appeal has been filed under Clause 10 of the Letters Patent.

In the matter of appointment of teachers, the Writ Court dismissed the writ petition on the following consideration:

The first ground was that the selection was made in the



year 2008 and challenge to the selection was made after six years in the year 2014; second ground was that the right have been created in favour of those persons, who have already been appointed; and the third and the fourth grounds were that the Rules of appointment have undergone change in the year 2012 and that subsequent vacancies even if they have arisen cannot be filled up by earlier process of appointment.

Learned counsel for the petitioners tried to indicate that after orders were passed in various cases by this Court and the Tribunal with regard to the same selection in the year 2012 and 2013, the petitioner approached the Tribunal only in the year 2014 and, therefore, there is no delay in challenging the same. That apart, we find that the petitioners are untrained teachers and as per Rules only if trained teachers are not available, then preference has to be given to untrained teachers. There is nothing available on record either in the writ petition or before us to hold that after all the posts was filled by trained teachers; still posts were available which could be filled up by the persons, like the petitioners, who fall in the untrained category.

Apart from the aforesaid, we find that while dealing with the matter, the Tribunal has gone into various aspects in detail and specific findings have been recorded to say that no person less meritorious than the petitioners has been appointed.



Taking note of all these factors, we find no reason to make any interference into the matter. The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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